

ORIGINAL



Date: July 27, 2012

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To: **Docket Control**
Arizona Corporation Commission
1200 West Washington St.
Phoenix, AZ 85007

2012 AUG -2 A 10: 58

From: Robert T. Hardcastle
Payson Water Co., Inc.

FOR FILING ORIGINAL AND 13 COPIES INTO:

DOCKET NO. W-03514A-12-0007

Smith vs. Payson Water Co.

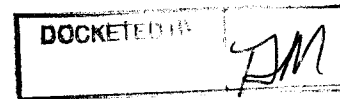
Arizona Corporation Commission

DOCKETED

AUG 02 2012

By:

Robert T. Hardcastle



BEFORE THE ARIZONA CORPORATION COMMISSION

Robert T. Hardcastle
Payson Water Co., Inc.
P.O. Box 82218
Bakersfield, CA 93380-2218
Representing Itself In Propria Persona

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AZ CORP COMMISSION
DOCKET CONTROL

COMMISSIONERS

Gary Pierce, Chairman
Paul Newman, Commissioner
Brenda Burns, Commissioner
Bob Stump, Commissioner
Sandra D. Kennedy, Commissioner

IN THE MATTER OF J. ALAN
SMITH,
COMPLAINANT
VS.
PAYSON WATER CO., INC.,
RESPONDENT

Docket No. W-03514A-12-0007
**NOTICE OF INITIAL
DISCLOSURE**

On January 10, 2012 Complainant Smith (hereafter "Complainants") filed a Formal Complaint into Docket No. W-03514A-12-0007 based on previously submitted informal complaint number 2011-99889.

On February 2, 2012 Payson Water Co filed an Answer to the Complaint and a Motion to Dismiss.

On February 16, 2012 Complainant filed a Reply to Payson Water Co.'s Answer.

On February 23, 2012 a Procedural Order was issued scheduling a procedural conference for March 9, 2012.

On March 9, 2012 a Procedural Conference was conducted with the Parties.

On March 29, 2012 Payson Water Co. filed a supplemental Motion to Dismiss.

On March 30, 2012 Payson Water Co. filed a Motion to Quash Brooke Utilities, Inc. as a party to the Complaint.

1 On April 3, 2012 Complainant filed a Response and Objection to Respondent's
2 Motion to Quash Brooke Utilities, Inc. as a party to the Complaint.

3 On April 3, 2012 Complainant filed a Response and Objection to Respondent's
4 Motion to Dismiss and Motion to Deny.

5 On April 9, 2012 Payson Water Co. filed a Reply to Complainant's Response to
6 Payson Water Co.'s Motion to Dismiss and Motion to Deny.

7 On April 9, 2012 Payson Water Co. also filed a Reply by Payson Water Co. to
8 Complainant's Response and Objection to Respondent's Motion to Quash Brooke
9 Utilities, Inc. as a Party to the Complaint.

10 On April 13, 2012 Complainant filed a Response and Objection to Respondent's
11 Reply to Complainant's Response to Respondent's Motion to Dismiss and Deny.

12 On April 20, 2012 the Utilities Division of the Arizona Corporation Commission
13 ("Staff") filed a Notice of Filing regarding the status of a subpoena issued to Martin's
14 Trucking.

15 On May 3, 2012 Staff filed a Status of Mediation indicating that a settlement was
16 not reached by the parties and requested a hearing be scheduled.

17 On June 18, 2012 a Procedural Order was issued which set forth the hearing date
18 of August 7, 2012 and the compliance dates and deadlines as it relates to this Docket. In
19 addition, the Procedural Order provided that Payson Water Co. and Staff shall file
20 responsive rejoinder testimony no later than July 30, 2012 (see Procedural Order at page
21 2, lines 19-20).

22 On July 23, 2012 Complainant Smith filed a Notice of Second Discovery and
23 Disclosure.

24 On July 31, 2012 Payson Water Co. filed its Supplemental Motion to Quash
25 Brooke Utilities, Inc. as a party to the Complaint.

26 Payson Water Co. does hereby provide its Initial Disclosure and Discovery of
27 witnesses and reserves the right to supplement this Disclosure prior to the Hearing.

28 **Witnesses:** Respondent Payson Water Co may call the following witnesses as part
29 of its defense in this matter;

- David Allred
Operations Superintendent
Brooke Utilities, Inc.
- Mike Ploughe
Hydrogeologist
Highland Water Resources and Consulting Inc.
- Connie Walczak
Consumer Services Division
Arizona Corporation Commission
- Marlin Scott
Utilities Division Engineering Department
Arizona Corporation Commission

Other witnesses may also be called by Respondent that are either uncertain or unknown at this time. Respondent also reserves the right to cross examine some or all of Complainant's disclosed witnesses.

Exhibits: As part of its defense of this Complaint Respondent Payson Water Co. may use some or all of the following exhibits in this matter;

- (1) June 9, 2011 Email from Commission Staff with informal complaint 2011-95692
- (2) June 2011 Events Calendar
- (3) July 2012 photographs (3) of property at 8166 Barranca Rd.
- (4) July 2012 photograph (1) of water meter box at 8166 Barranca Rd.
- (5) July 13, 2012 Interview and Affidavit of Roy Williams.
- (6) June 2011 Smith Disconnection Notice
- (7) June 2011 Mesa del Caballo Water Conservation Staging Levels
- (8) June 2011 Mesa del Caballo water conservation customer advisory
- (9) Customer Hutchinson service establishment form

In addition to the foregoing Respondent Payson Water Co. may reference or use any other exhibit, document, filing, pleading, disclosure, testimony, recording, or any other document already filed by either Complainant or Respondent already made part of this Docket. Further, Respondent Payson Water Co. may reference or use other exhibits,

documents, or evidence not otherwise disclosed above, and presently undecided or unknown to Respondent, as may be necessary.

For the convenience of the parties and Commission Staff copies of the documents specifically referenced above are attached hereto.

Respondent Payson Water Co. reserves the right to file supplemental disclosure of witnesses or exhibits as may be necessary before the Hearing.

RESPECTFULLY SUBMITTED this 31st day of July 2012.

Payson Water Co., Inc.

By: 

Robert T. Hardcastle

In Propia Persona

ORIGINAL and 13 copies filed
this 24th day of July 2012, with:

Docket Control
Arizona Corporation Commission
1200 West Washington St.
Phoenix, AZ 85007

And copies mailed to the following:

Lynn Farmer, Administrative Law Judge
HEARING DIVISION
Arizona Corporation Commission
1200 West Washington St.
Phoenix, AZ 85007

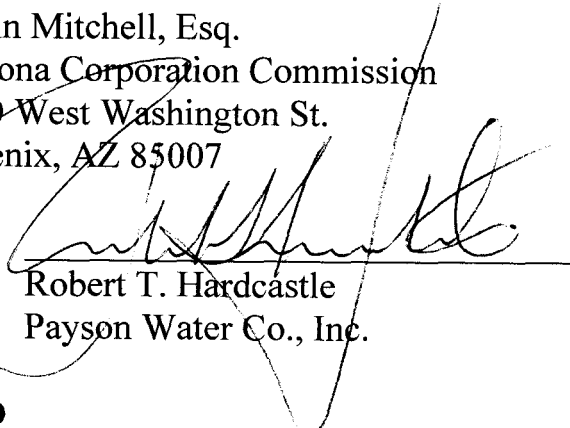
Arizona Reporting Service, Inc.
2200 No. Central Ave. Suite 502
Phoenix, AZ 85004-1481

J. Alain Smith

. 1 8166 Barranca Rd.
2 Payson, AZ 85541
3
4 Janice Alward, Chief Counsel
5 Legal Division
6 Arizona Corporation Commission
7 1200 West Washington St.
8 Phoenix, AZ 85007
9

10 Steve Olea
11 Utilities Division
12 Arizona Corporation Commission
13 1200 West Washington St.
14 Phoenix, AZ 85007
15

16 Robin Mitchell, Esq.
17 Arizona Corporation Commission
18 1200 West Washington St.
19 Phoenix, AZ 85007
20

21 By: 
22 Robert T. Hardcastle
23 Payson Water Co., Inc.
24

25 **END**
26
27

EXHIBITS

Bob Hardcastle

From: Al Amezcua <Aamezcua@azcc.gov>
Sent: Thursday, June 09, 2011 4:10 PM
To: Bob Hardcastle
Subject: ACC Complaints: Smith, Allen - Complaint No. 95692
Attachments: rpt_Complaint_EmailPDF.pdf

Please see the attached complaint. It is in PDF format.

===== This footnote confirms that this email message has
been scanned to detect malicious content. If you experience problems, please e-mail postmaster@azcc.gov
=====

ARIZONA CORPORATION COMMISSION
UTILITY COMPLAINT FORM

Investigator: Al Amezcua

Phone: (602) 542-0842

Fax: (602) 542-2129

Priority: Expedite

Complaint No. 2011 - 95692

Date: 6/9/2011

Complaint Description: 06Z Disconnect/Terminations - Other
N/A Not Applicable

Complaint By: First: Allen Last: Smith

Account Name: Joanna Hutchison

Home: (928) 951-2083

Street: 8166 Barranca Rd

Work: (000) 000-0000

City: Payson

CBR: 336-957-5060

State: AZ Zip: 85541

is: Home

Utility Company: Payson Water Co., Inc.

Division: Mesa Del Caballo

Contact Name: Bob Hardcastle

Contact Phone: (661) 633-7526

Nature of Complaint:

6/9/11 PLEASE EXPEDITE!

I got a call today from the smith's who currently live at the address mentioned above. They stated that the water was turned off today for a violation of water consumption. They received a Warning Notice according to the water company stating that they had used 130 and needed to reduce it to 97 gals otherwise their service would be disconnected. The notice was not on the door or mailbox, it was in the meter box. When he called today he was told you went over your daily consumption. If you want your water back on you need to pay \$200. He asked for what and was not given an answer.

The account holder the Hutchison's (acct # 6113824899) called right after to report this error and wanted to file a complaint. They would like this matter investigated right away and have their water turned back on ASAP.

Questions for Utility Company

What is their monthly consumption for the last 12 months?

Why would the utility company leave the Warning Notice in the meter box, instead of the door or mailbox?

How is their daily consumption determined?

What is the \$200 for he was asked to pay?

Why wasn't the customer service rep not able to answer their questions?

End of Complaint

Utilities' Response:

Investigator's Comments and Disposition:

6/9/11 Emailed to utility company for a response.

End of Comments

ARIZONA CORPORATION COMMISSION

UTILITY COMPLAINT FORM

Date Completed:

Complaint No. 2011 - 95692

2011

June

THE MAN OF STEEL! The world's most famous comic-book hero first appeared, created by Canadian Joe Shuster and American Jerome Siegel. It's a bird! It's a plane! No, it's Superman!



MAY

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

JUNE

S	M	T	W	T	F	S
1	2	3	4			
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

JULY

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

AUGUST

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

SEPTEMBER

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

OCTOBER

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

NOVEMBER

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

SUNDAY	MONDAY	TUESDAY
Important this month		

5	15/07/09	6 STAGE 3	15/07/08	7 STAGE 3	15/07/07
---	----------	-----------	----------	-----------	----------

		• SMITH METER READ	• SMITH DISCONNECT NOTICE		
--	--	--------------------	---------------------------	--	--

		14 STAGE 3	15/07/00		
--	--	------------	----------	--	--

		• APS NOTICES CSC OR	• SMITH SERVICE RE-CONNECTED		
--	--	----------------------	------------------------------	--	--

19	17/01/95	20	17/01/94	21	17/01/93
----	----------	----	----------	----	----------

26	17/01/88	27	17/01/87	28	17/01/86
----	----------	----	----------	----	----------

WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
1	2	3	4
15/2/13	15/2/12	15/2/11	15/2/10

8 STAGE 3	15/07/06				
-----------	----------	--	--	--	--

• SMITH SERVICE DISCONNECTED	• SMITH CALLS CSC	• SMITH CALLS AT APS			
------------------------------	-------------------	----------------------	--	--	--

15	16/07/95	16	16/07/96	17	16/07/97	18	16/07/96
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		• ALL CSC CALLS SMITH			
--	--	-----------------------	--	--	--

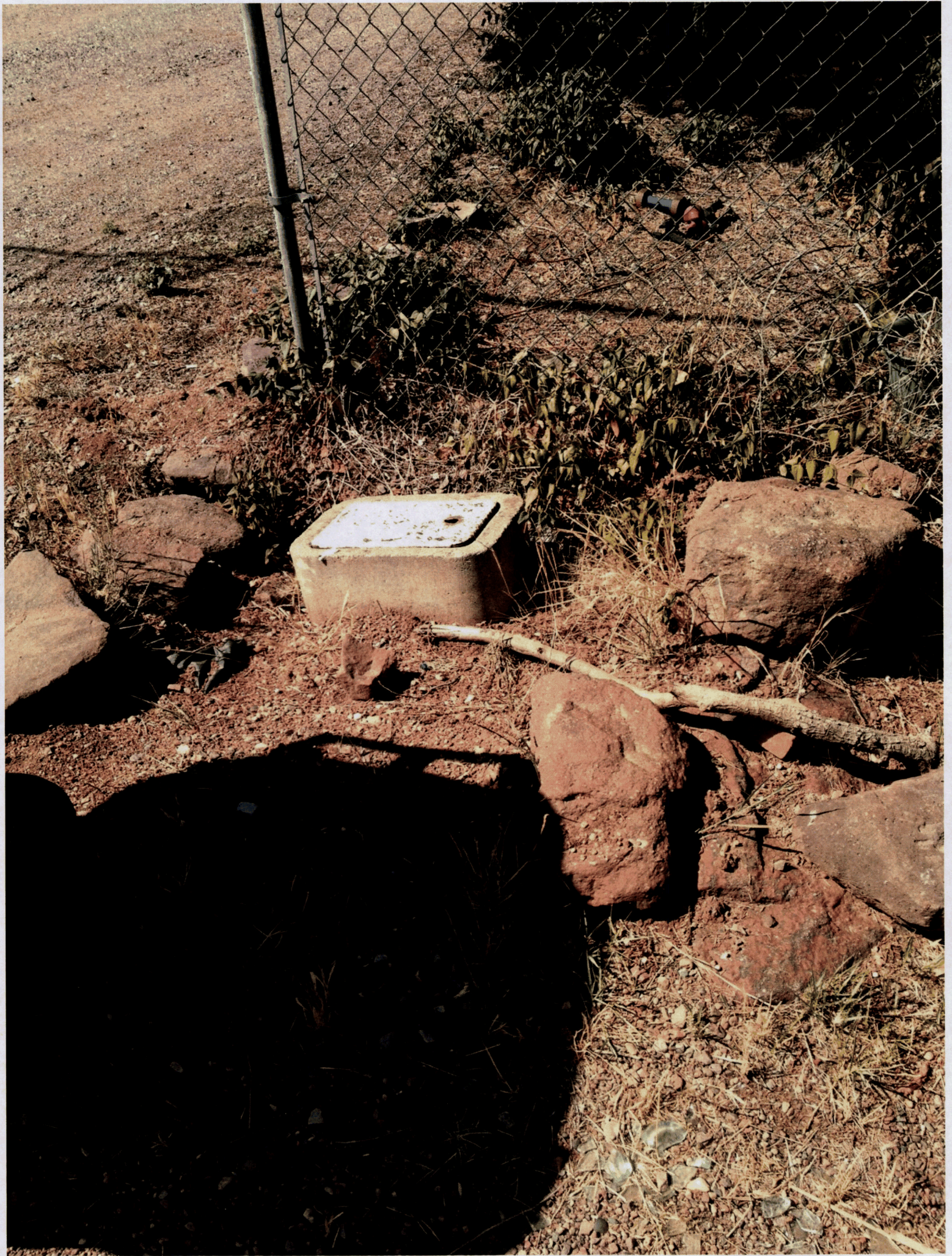
22	17/01/92	23	17/01/91	24	17/01/90	25	17/01/89
----	----------	----	----------	----	----------	----	----------

29	18/01/85	30	18/01/84	Important this month			
----	----------	----	----------	----------------------	--	--	--









INTERVIEW OF ROY WILLIAMS

July 13, 2012 at 1600 Hours Conducted Telephonically
In Regard to Docket No. W-03514A-12-0007
Smith vs. Payson Water Co., Inc.

RECEIVED

JUL 25 2012

BROOKE UTILITIES

Question 1: What is your name?

Answer 1: Roy Williams

Question 2: Where do you live?

Answer 2: Lake Charles, Louisiana

Question 3: Where did you live in 2011?

Answer 3: Payson, AZ

Question 4: In 2011 by whom were you employed?

Answer 4: Brooke Utilities, Inc.

Question 5: In what capacity were you employed?

Answer 5: Water operator.

Question 6: Do you have ADEQ certifications?

Answer 6: Yes

Question 7: What are those certifications?

Answer 7: Grade 2 Distribution and Grade 1 Treatment.

Question 8: Are you familiar with the Mesa del Caballo water system?

Answer 8: Yes

Question 9: During June 2011 did you perform water operator services at Mesa del Caballo?

Answer 9: Yes

Question 10: Was Mesa del Caballo one of the water systems that you regularly performed water operator services at?

Answer 10: Yes

Question 11: Would you say your familiarity with the Mesa del Caballo water system is significant?

Answer 11: Yes

Question 12: Do you recall how many gallons of water storage are located at Mesa del Caballo?
Answer 12: As I recall about 100,000 gallons.

Question 13: INTENTIONALLY LEFT BLANK.
Answer 13:

Question 14: Did your regular water operator services at Mesa del Caballo include customer meter disconnection?
Answer 14: Yes

Question 15: Attached to this Interview I have attached a photograph of the Smith residence located at 8166 Barranca Rd. in Mesa del Caballo. Are you familiar with this residence?
Answer 15: Yes

Question 16: Can you recall any specific identifying features of Smith's residence?
Answer 16: The property had a porch, no garage, water meter was located on the right side of the property as you faced the house, and there was frequently a dog that sat on the porch.

Question 17: Can you describe any details about the dog you recall?
Answer 17: The dog was not friendly, aggressive. Growled a lot. It was about knee high, short hair, mixed breed, maybe 50-60 pounds, mostly black in color, wore a collar. The dog never bit me but scared me thinking it might bite me.

Question 18: In June 2011 do you remember leaving a disconnection notice at the Smith property?
Answer 18: Yes, it was sometime in June. I don't remember specifically when. I remember having to deal with the dog to leave the notice.

Question 19: Do you recall where you left the disconnection notice?
Answer 19: Yes, near the front door ~~know or handle~~ *HAOB*.

Question 20: When you left the disconnection notice how do you know it was securely in place?
Answer 20: Because like other notices I made sure it was left on the door as hard and securely as I could. I made an extra effort to make sure it was secure.

Question 21: Are you confident, sure, or very sure you left the disconnection notice on the front door?
Answer 21: Very sure or certain.

Question 22: Did you leave the June 2011 disconnection notice at the Smith property located at 8166 Barranca Rd. in Mesa del Caballo in the water meter box?
Answer 22: No.

Question 23: Did you ever leave disconnection notices at the Smith property located at 8166 Barranca Rd. in Mesa del Caballo in the water meter box?
Answer 23: Never.

Question 24: Why did you leave the June 2011 disconnection notice at the Smith residence on the front door knob?
Answer 24: Because that is where we were told to leave it. It was Company policy.

Question 25: When you left the June 2011 disconnection notice at the Smith property did you see or speak with anyone?
Answer 25: No. I didn't notice any people or hear any sounds. Just the dog.

Question 26: In the Smith Complaint he asserts you left the June 2011 disconnection notice in the water meter box. Do have any idea how the disconnection notice would get in the meter box?
Answer 26: I have no clue.

Question 27: When did you leave Brooke's employ?
Answer 27: January 2012

Question 28: Why did you leave Brooke's employ?
Answer 28: To take advantage of some employment opportunities for wife's business.

Question 29: To the best of your knowledge, if you were to return to Arizona, would you be eligible for rehire at Brooke as a water operator?
Answer 29: Yes

END OF INTERVIEW OF ROY WILLIAMS

AFFIDAVIT OF ROY WILLIAMS

Roy Williams, being duly sworn, deposes, and says:

- (1) I am a resident of Lake Charles, Louisiana.
- (2) In 2011 I was a resident of Payson, Arizona
- (3) I am a certified water operator.
- (4) I provided complete and truthful responses to questions ask of me by Robert T. Hardcastle on July 13, 2012, telephonically conducted with David Allred present as well, as it relates to Arizona Corporation Commission Docket No. W-03514A-12-0007.

Roy Williams

Roy Williams

Sworn to and subscribed before me this
20th day of July 2012.

Christie Consunado

Christie Consunado #52134

PAYSON WATER CO., INC.

Mesa del Caballo Water System

Pursuant to the revised Curtailment Tariff approved by the Arizona Corporation Commission Decision No. 71902 dated September 28, 2010 please be advised of this

WARNING NOTICE OF DISCONNECTION

For failure to observe the water conservation requirements of the Decision. Your water service will be disconnected in approximately 24 hours if water conservation of the required quantity of water provided in the Decision is not accomplished.

Today's Date:	6/7/11
Today's Conservation Stage:	Stage 3
Disconnection Date:	6/8/11
Service Location:	MESA L442, Mesa del Caballo
Meter #:	66247806
Today's Meter Read:	263690
Yesterday's Meter Read:	263560
Daily Use:	130 gallons
Maximum Daily Use:	97 gallons
Required Usage Reduction:	33 gallons

YOUR COOPERATION IS IMMEDIATELY REQUIRED

Avoid Disconnection. Reduce water consumption as required above.

Payson Water Co (Mesa del Caballo)

June 2011 Water Conservation Staging Levels

19-Jul-12

1-Jun	3	79/2/stay 3
2-Jun	3	76/2/stay 3
3-Jun	3	74/2/stay3
4-Jun	3	79/2/stay 3
5-Jun	3	73/3
6-Jun	3	68/3
7-Jun	3	50/5/go 4
8-Jun	3	76/3/go 3
9-Jun	2	80/2/stay3
10-Jun	2	90/1/2
11-Jun	2	83/stay2
12-Jun	2	76/2
13-Jun	2	69/3/ go 3
14-Jun	3	73/3
15-Jun	3	71/3
16-Jun	3	72/3
17-Jun	3	71/3
18-Jun	3	65/3
19-Jun	3	59/4/go4
20-Jun	3	76/2/go 2
21-Jun	2	90/1/stay2
22-Jun	2	73/3/go 3
23-Jun	3	60/4/go 4
24-Jun	3	57/4/go4
25-Jun	4	97/1/go 3
26-Jun	3	82/2
27-Jun	3	72/3
28-Jun	3	71/3
29-Jun	3	61/4
30-Jun	3	85/1

Brooke Utilities

From: Brooke Utilities
Sent: Tuesday, June 07, 2011 5:00 PM
Subject: Stage 4 Notice: Mesa del Caballo

Payson Water Co.

Date: June 7, 2011
Time: 1700 hours
Re: Mesa del Caballo Water System **Stage 4 Water Conditions**
Pursuant to ACC Decision No.71902 dated September 28, 2010

Please be advised that, pursuant to the above referenced ACC Decision, **MANDATORY** Stage 4 water conservation conditions are effective immediately. All customers should endeavor to immediately reduce water consumption at least 40% as measured on a "daily basis". Failure by customers to reduce water consumption to this level may result in disconnection. Further water use restrictions exist as follows: (a) no outside watering is permitted on Mondays, Thursday's, Friday's and Sunday's; (b) outside watering is permitted on Tuesday's for customers with odd numbered street addresses; (c) outside watering is permitted on Wednesday's for customers with even numbered street addresses; and, (d) during the period May 1 through September 30 annually outdoor watering using spray or airborne irrigation shall be conducted during the hours of 8 p.m. to Midnight or during the hours of 3 a.m. to 7 a.m. Under Stage 4 conditions the following use of water is strictly prohibited: (1) all outdoor irrigation; (2) washing vehicles; (3) outdoor dust control or cleaning; (4) outdoor drip irrigation or misting systems; (5) filling of pools, spas, or any other outdoor water features; (6) all construction water; (7) restaurant or convenience store patrons served water only on request; (8) ANY other water intensive activity. Under Stage 4 conditions new water meters and service lines are prohibited. Customers of Mesa del Caballo have been Noticed by means of changing water conservation staging signs and electronic mail. Customers may be disconnected without further notice if they are found to be in violation of Stage 4 water conservation measures. Reconnection fees for violation of Stage 4 conditions will be applied to all customers seeking reconnection.

Thank you for your cooperation.

Payson Water Co.

Bob Hardcastle

To: Bob Hardcastle
Subject: FW: Gehring

Customer Maintenance

Maribel Brooke Utilities, Inc. 3/21/

Save Clear Delete Next ID Write Letters Messages

Customer	24899	<input checked="" type="checkbox"/> Individual	Customer Class	DEFAULT
Name	Title (None) First JOANNA	Init. Last HUTCHISON	Phone 1	(928) 951-2083 Ext. 0000
Place of Work			Phone 2	(336) 957-5060 Ext. HOME
Address	PRIMARY		Phone 3	(000) 000-0000 Ext. 0000
Contact		<input type="checkbox"/> Print	Fax	(000) 000-0000 Ext. 0000
Address	8166 BARRANCA			
City	PAYSON			
State	AZ			
Zip Code	85541	<input checked="" type="checkbox"/> USA		
Country	USA			
Ship To	PRIMARY			
Bill To	PRIMARY			
Mail To	PRIMARY			
Mail To Override	From	To	<input type="checkbox"/> Recurring	

Address

Options

by Customer ID